NO.946 P.2

i hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, facelmile no. 703 308-42-2, on the date shown below.

Dated: July 30, 2002

Signature: Maun P. Foley)

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GROUP 1600 Docket No.: OCIRS 3.3-073

(PATENT)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Tumer et al.

Application No.: 09/936,454

Group Art Unit: 1638

Filed: September 13, 2001

Examiner: Not Yet Assigned

For: TRANSGENIC PLANTS HAVING IMPROVED FLAVOR PROPERTIES

## **PETITION UNDER RULE 1.78**

Commissioner for Patents Washington, DC 20231

Dear Sir:

Pursuant to 37 C.F.R. §1.78(a)(3), Applicants hereby request entry of a Preliminary Amendment filed of even date herewith (copy attached), which introduces into page 1 of the specification, the priority information (under §§119(e) and 371) that is contained in the Declaration.

Applicants submit that the entire delay between the date the claim was due as required by 37 C.F.R. §1.78(a)(2), and today's date was unintentional. 37 C.F.R. §1.78(a)(3)(ii).

The Commissioner is authorized to charge the surcharge set forth in §1.17(t) to Applicants' Deposit Account No. 12-1095. However, being that the priority information is set forth in the Declaration filed with the Application, and that this Petition is being filed prior to any action on the merits, and thus will not create any delay in or unnecessarily prolong prosecution, Applicants respectfully request waiver of the surcharge.

Adjustment date: 08/27/2002 AKELLEY 08/06/2002 GPAYNE 00000004 121095 09936454 01 FC:122 130.00 CR

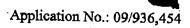
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Docket No.: OCIRS 3.3-073

Favorable consideration and granting of this Petition is respectfully requested.

Dated: July 30, 2002

Respectfully submitted,

hawn P. Foley

Registration No.: 33,071

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